

### REMARKS

The present application contains claims 143-158, 200-205, 219-234 and 236-253. Claims 143-158, 200-205 and 219-232 were withdrawn from consideration. Claims 252-253 are new.

Claims 233, 234 and 236-239 stand rejected under 35 U.S.C. §102(e) as being anticipated by Wakabayashi (US patent 5,951,576). Applicants respectfully traverse the rejection and state that the Examiner has not established a *prima facie* case of anticipation, since Wakabayashi does not teach at least one requirement of claim 233.

Claim 233 requires transporting a connector including at least one spike for attaching to the blood vessel through a lumen of the hole puncher. In contrast, in Wakabayashi, prosthesis 60 is mounted on the end of each anvil (col. 4, lines 40-42) and is not transported through a lumen of the hole puncher. Staples 45 are mounted on a distal end of outer tube 10 and are pushed into the blood vessel by wire pushers (col. 4, lines 1-7). Staples 45 are not transported through a lumen of the hole puncher, as required by claim 233.

The dependent claims are allowable at least because they depend on an allowable claim. Nonetheless, at least some of the dependent claims add further patentability over Wakabayashi. For example, claim 236 requires removing a sub-assembly of the hole puncher from a channel of the hole puncher, and transporting the connector through the channel from which the sub-assembly was removed. This is not taught or suggested by Wakabayashi, which does not pass prosthesis 60 through a channel of the hole puncher.

Claims 240-251 stand rejected under 35 U.S.C. §102(e) as being anticipated by Wakabayashi (US patent 5,951,576). Applicants respectfully traverse the rejection and state that the Examiner has not established a *prima facie* case of anticipation, as Wakabayashi lacks at least one requirement of claim 240.

Claim 240 requires removing the tissue engager from a channel of the hole puncher. This is not taught or suggested by Wakabayashi, which pushes anvil elements 18 to the sides (col. 4, lines 26-30) but does not remove them from the lumen. In Fig. 14, the anvils are retracted into their original position, not retracted from the a channel of the stapling device 9. Thereafter, the entire stapling device 9 is retracted from the patient (col. 5, lines 1-6).

The dependent claims are allowable because they depend on an allowable claim.

Applicants respectfully point out that Supplementary Information Disclosure Statements filed on August 10, 2004, and on January 18, 2005 included a 2-page 1449 Form. The forms were never received in return initialed by the Examiner. Applicants are resubmitting the forms again and respectfully request that the reference listed thereon be initialed by the Examiner. Applicants assume that the art has already been considered by the Examiner in accordance with MPEP 609.

In view of the above remarks, applicants submit that the claims are patentable over the prior art. Allowance of the application is respectfully awaited. If the Examiner is unable to agree that the elected claims are all patentable, he/she is respectfully requested to contact the undersigned at toll free 1 (877) 428-5468. This number connects directly to our office in Israel. Please note that Israel is 7 hours ahead of Washington and that our work week is Sunday-Thursday.

Respectfully Submitted,  
Ari DEROWE et al.



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